HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4712 OF 2006

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Dated: 09-03-2006

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Between

Moghal Developers Private Limited,

Rep. by its Managing Director,

Mohd. Gazanfar Ali Khan,

S/o. Sri Mohd. Mansoor Ali Khan,

Having its registered office at

H.No.12-2-787, Rethi Bowli,

Mehdipatnam, Hyderabad.

...PETITIONER

AND

State of Andhra Pradesh,

Rep. by Secretary,

Municipal Administration and

Urban Development,

Secretariat Buildings,

Hyderabad and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the respondents in attempting to take forcible possession of the front open area of its building bearing No.12-2-787, Rethi

Bowli, Mehdipatnam, Hyderabad without issuing any notice and without following due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that petitioner-company constructed a multi storied building in respect of the house property bearing No.12-2-787 in plot Nos.1 to 4 admeasuring
1665 Sq. yards situated at Rethi Bowli, Mehdipatnam, Hyderabad after obtaining permission vide permit No.B4/1 dated 02.07.2004 from the second respondent for construction of cellar for parking and five upper floors. He further submits that they have not violated the sanction plan in any manner and the parking space is also not occupied and it is utilized for parking only but the respondents without giving any notice either under Section 452 or for unauthorized construction under Section 636 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') are threatening and attempting to take forcible possession of the said building.

Without expressing any opinion as to whether the petitioner has violated the sanction plan but having regard to the facts and circumstances of the case, the respondents are directed to follow the due procedure prescribed in law before demolishing or taking possession of any portion of the property of the petitioner.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 9, 2006

Note: Furnish C.C. of the order by 10.03.2006

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